

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
To Increase Gas and Electric Revenue
Requirements, Rates and Charges for a Pension
Contribution, Effective January 1, 2006.

Application 05-12-021

**PROTEST
OF THE DIVISION OF RATEPAYER ADVOCATES**

**I. INTRODUCTION AND SUMMARY OF
RECOMMENDATIONS**

Pursuant to Rule 44 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits this Protest to the Pension Contribution Application of Pacific Gas and Electric Company (PG&E). Since the Application (A.) 05-12-021, was first noticed in the Commission's Daily Calendar on December 21, 2006, this Protest is timely filed.

II. BACKGROUND

On December 20, 2005, PG&E filed A. 05-12-021 pursuant to the Commission's Decision (D.) 05-12-046. D. 05-12-046 granted, in part, PG&E's Petition to Modify D.04-05-055. D.04-05-055 was the Commission's decision in PG&E's last General Rate Case (GRC), and that decision, among other things, denied PG&E's request for ratepayer funding of pension contributions for the rest of the test year (TY) 2003 GRC cycle. D.05-12-046 "modified" D.04-05-055 to allow PG&E a rate increase for pension contributions effective January 1, 2006.

DRA opposed PG&E's Petition to Modify¹. DRA's opposition was based, in part, on the fact that, allowing PG&E to file an application in advance of, and in addition to, its TY 2007 GRC application imposed an unnecessary and undue burden on DRA, other interested parties and the Commission. On December 2, 2005, PG&E filed its TY 2007 GRC application which includes a request for pension contributions for the years 2007, 2008 and 2009.

III. DISCUSSION

In its Application, PG&E claims that "the funded status of PG&E's Retirement Plan trust ... has slipped below 100% and is moving lower." (A. 05-12-021, Exhibit PG&E-1, p. 1-1.) For that reason, PG&E is requesting "... that the Commission include a net annual contribution of \$249.7 million when computing PG&E's revenue requirement for 2006." The associated revenue requirement for which PG&E seeks ratepayer funding is an incremental \$155 million in 2006. (*Id.*) The Commission has authorized PG&E to make this increase effective in rates on January 1, 2006 subject to refund upon Commission determination of the merits of this Application.

At this point, DRA disputes PG&E's assumption that, once PG&E has estimated that its Plan's funded status is below 100%, immediate ratepayer funding is required. In addition, DRA plans to review other matters pertaining to PG&E's forecast of pension costs.

IV. PROCEDURAL MATTERS

A. Proposed Category

PG&E proposes that this Application be categorized as a ratesetting proceeding. DRA agrees.

B. Need for Hearing

PG&E anticipates that hearings may be necessary. DRA agrees that hearings are likely to be needed on the issue and recommends that the pension issues in this

¹ Effective January 1, 2006, and pursuant to Public Utilities Code Section 309.5, the Office of Ratepayer Advocates became the Division of Ratepayer Advocates, DRA.

Application be consolidated with the pension issues PG&E included in its GRC application.

C. Proposed Schedule

In its Application, PG&E recommends that the Commission process A.05-12-021 on an “expedited basis so that its decision can be issued before pension contributions are litigated fully in the 2007 GRC.” (Application, p. 6.) DRA is uncertain what PG&E means by this statement. If PG&E is suggesting that the pension issue in this Application should not be fully litigated, then DRA vigorously disagrees. Wherever there are disputed issues of material fact, and the pension issue seems rife with them, DRA and any other interested party are entitled to litigate them fully.

According to its January 18, 2006 Pre-hearing Conference Statement for A. 05-12-021, PG&E “continues to recommend the schedule” it originally proposed in A.05-12-021 if this A. 05-12-021 is not consolidated with the GRC Application. The schedule PG&E proposed in A.051-12-021 would have DRA testimony due March 6, 2006 with hearings the week of April 17, 2006.

Whether ratepayer contributions to PG&E’s pension trust are justified is a complex issue requiring a thorough analysis. PG&E chose to seek ratepayer funding of pension contributions outside the GRC period, and had the opportunity to consult with its actuary and time the filing of its Petition for Modification accordingly. DRA has not had that luxury.

PG&E claims that “expediting” A.05-12-021 would allow PG&E to make a 2006 pension contribution sooner rather than later and that this will “produce a tangible benefit.” (PHC Statement, p. 2.) A swift Commission decision might well allow PG&E to make an early contribution, but if no party has been given an adequate opportunity to evaluate the need for the contribution in the first place, then that “benefit” is illusory.

Furthermore, PG&E has until Summer 2007 to make a pension contribution for 2006. Therefore, DRA’s proposed consolidation would not prejudice PG&E’s ability to make a pension contribution for 2006.

DRA is in the midst of reviewing PG&E's voluminous GRC filing, including its request for ratepayer funded pension contributions for 2007 through 2009. The pension issues in both cases involve common questions of law and fact, and DRA sees no reason to litigate the pension issue twice in two separate proceedings. For that reason, as noted above, DRA recommends that the pension issues in this Application be consolidated with the GRC Application so that they may all be fully litigated together. DRA asks that the schedule for consideration of the consolidated pension issues proceed along the schedule DRA set forth in its PHC Statement in the GRC, A.05-12-002.

Respectfully submitted,

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January 20, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**PROTEST OF THE DIVISION OF RATEPAYER ADVOCATES**” in **A. 05-12-021** by using the following service:

☒ **E-Mail Service:** sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

☐ **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record.

Executed on January 20, 2006 at San Francisco, California.

Nancy Salyer

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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